

REMARKS

Examiner's Rejections and Objections

The foregoing Amendment and remarks which follow are responsive to the initial Office Action mailed June 24, 2004. In that Office Action, the Examiner rejected Claims 1-3, 6, 8, 11, 12, 14, 15 and 19 under 35 U.S.C. 102(b) as being anticipated by WO 00/23653 issued to Kinnunen. Additionally, the Examiner rejected Claims 4, 7, 16 and 18 under 35 U.S.C. 103(a) as being unpatentable over Kinnunen (WO 00/23653) in view of Westcott (2,181,005). Finally, the Examiner rejected Claims 9, 10 and 20 under 35 U.S.C. 103(a) as being unpatentable over Kinnunen (WO 00/23653) in view of Imm (6,018,833).

Allowable Subject Matter

In the Office Action, the Examiner has allowed Claims 21 and 22. Furthermore, the Examiner merely objected to Claims 5, 13 and 17 as being dependent upon a rejected base claim, but indicated that Claims 5, 13 and 17 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

By this Amendment, Applicant has amended Claim 5 to include all of the limitations of independent Claim 1 and intervening Claim 4. Likewise, Claim 13 has been amended to include all of the limitations of independent Claim 12. Finally, Claim 17 has been amended to include all of the limitation of independent Claim 12. Therefore, Claims 5, 13 and 17 are now believed to be in condition for allowance.

Objection to Claim 1

In the Office Action, the Examiner objected to Claim 1 by indicating that the phrase "embed portion" should be revised to "embedded portion". By this Amendment, Applicant has corrected the informality by amending the relevant claims and the specification to recite "embedded portion". Therefore, the Examiner's objection is believed to be overcome.

Objections to Claims 5 and 14

In the Office Action, the Examiner objected to Claims 5 and 14 by indicating that the phrase “former alignment ribs” should be revised to “pocket former alignment ribs”. By this Amendment, Applicant has corrected the informality by amending Claim 5 to recite “pocket former alignment ribs”. Therefore, the Examiner’s objection to Claim 5 is believed to be overcome.

Furthermore, in the Office Action, the Examiner objected to Claim 14 under 37 CFR 1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim. More specifically, the Examiner indicates that Claim 12 recites “the plate portion is sized and configured to be complementary to the interior compartment” and that Claim 14 recites the same language with Claim 14 being dependent upon Claim 12. By this Amendment, Applicant has cancelled Claim 14. Therefore, the Examiner’s objection to Claim 14 is moot.

Objection to Claim 21

In the Office Action, the Examiner objected to Claim 21, ln. 9, by stating the phrase “positioning the pocket former adjacent to the concrete form” should be recited as “releasably attaching the pocket former adjacent to the concrete form”. The Examiner also indicates that the latter recitation “[clarifies] how the concrete form is removed in a manner to permit the insertion of the dowel plate into the pocket former --releasably attached-- to the concrete form”. (Initial Office Action, Page 2).

Applicant respectfully points out to the Examiner that nowhere in the specification or figures of the application is it disclosed that the pocket former is *necessarily* releasably attached to the concrete form. For example, it is contemplated that the pocket former may be merely “position[ed] ... adjacent to the concrete form such that the interior compartment ... straight side [is] in abutment therewith”, as recited in Claim 21. In this regard, the pocket former may be merely supported by any means in an area of the first pour such that the straight side thereof is in abutting contact with the concrete form. The first pour is then made “such that the pocket former is rigidly encapsulated therewithin”, as recited in Claim 21. Therefore, although the pocket

former *may* be releasably attached to the concrete form such that the concrete form may be “remov[ed] ... after the first pour has cured”, Applicant submits that amending Claim 21 to recite “releasable attachment” of the pocket former would unnecessarily limit the scope of Claim 21.

Applicant respectfully therefore disagrees with the Examiner’s suggested revision to Claim 21 as such recitation would inaccurately describe and unnecessarily limit the method of installing the dowel plate within the pour joint as disclosed in the specification and figures. Applicant therefore respectfully requests withdrawal of the Examiner’s objection to Claim 21.

Traversal of Rejection of Independent Claims 1 and 12 Under 35 U.S.C. §102(b)

Claims 1-3, 6, 8, 11, 12, 14, 15 and 19 were rejected under 35 U.S.C. 102(b) as being anticipated by Kinnunen.

With respect to the rejection of Claim 1, the Examiner states that Kinnunen discloses “a dowel system (5, 6, 7, 8) which is interposed between adjacent 1st and 2nd concrete slabs (1,2) thus forming a joint. The dowel system comprising: A dowel plate (5/6) in the form [of] a circular dowel plate, spanning the width of the joint. Said dowel plate (5/6) having a slidable portion (5) and an embedded portion (6)”. (Initial Office Action, Page 3). The Examiner further states that Kinnunen discloses that the dowel system includes “A pocket former (7) disposed within the 1st slab (1) and having a horizontally extending interior compartment with an open and generally straight side and an arch-shaped compartment perimeter extending therefrom...with the straight side being aligned with the joint, such that [the] slidable portion (5) is at least partially surrounded by said pocket former (7). Wherein the embedded portion is rigidly encapsulated in the 2nd slab (2) and the slidable portion is slidably disposed within the pocket former...”. (Initial Office Action, Page 3).

However, with regard to Claims 2-3, the Examiner asserts that “Kinnunen further discloses a perimeter flange (3) [which] receives and is connected to the slidable dowel portion (5)...[such] that the perimeter flange (3) is generally, vertically oriented...”. Furthermore, the Examiner asserts that “it is clearly illustrated that the perimeter flange (3) extends around the pocket former perimeter”. (Initial Office Action, Page 4).

As amended, independent Claims 1 and 12 include the limitation of “the compartment perimeter having a perimeter flange extending therearound of generally vertically-oriented cross sectional shape configured for restricting horizontal movement of the pocket former within the first pour”, as is illustrated in Figures 1-5 of the application.

Applicant submits that the sheet metal profile 3 of Kinnunen is illustrated in Figures 1-34 as extending *linearly* along the pour joint between the “first casting mould and a second casting mould”. (Kinnunen, Page 11, lns. 17-18). While Applicant agrees with the Examiner that the sheet metal profile may be vertically oriented as shown in Figures 1-3 of Kinnunen, Applicant respectfully submits that the sheet metal profile does not extend around the pocket former perimeter as is claimed in amended Claims 1 and 12 of the application. Kinnunen fails to disclose each and every recited element of amended Claims 1 and 12 of Applicant’s invention.

Therefore, Applicant believes that amended independent Claims 1 and 12 are patentable over the cited and applied references. As such, the claims depending from Claim 1, namely Claims 2-11, are also believed to be patentable over the cited and applied references. Likewise, the claims depending from Claim 12, namely Claims 13 and 15-20, are believed to be patentable over the cited and applied references.

Traversal of Rejection of Claims 4, 7, 9, 10, 16, 18 and 20 Under 35 U.S.C. §103(a)

Claims 4, 7, 16 and 18 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kinnunen in view of Westcott. Claims 9, 10 and 20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kinnunen in view of Imm.

Claims 4 and 10 are dependent upon patentably distinguished Claim 1. Therefore, Claims 4 and 10 are believed to be patentable over the cited and applied references. Claim 7 is dependent upon Claim 2, which is also dependent upon patentably distinguished Claim 1. Therefore, Claim 7 is also believed to be patentable over the cited and applied references. Claim 9 is dependent upon Claim 8, which is also dependent upon patentably distinguished Claim 1. Therefore, Claim 9 is also believed to be patentable over the cited and applied references.

Claim 16 is dependent upon amended Claim 13 which was indicated as being allowable if rewritten in independent format including all the limitations of original Claim 12. Because Claim 13 has been so amended, Claim 16 is believed to be patentable over the cited and applied references. Claims 18 and 20 are dependent upon patentably distinguished Claim 12. Therefore, Claims 18 and 20 are believed to be patentable over the cited and applied references.

Because Kinnunen and Westcott, taken either individually or in combination, and because Kinnunen and Imm, taken either individually or in combination, fail to teach every element as claimed, a *prima facie* case of obviousness is not established, and the rejection is respectfully traversed.

Conclusion

In view of the above amendments and remarks, Applicants respectfully request allowance of the above identified application. Should the Examiner have any questions or suggestions for expediting allowance of the application, the Examiner is invited to contact Applicants' undersigned representative at the number listed below. If any additional fee is required, please charge Deposit Account Number 19-4330.

Respectfully submitted,

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